

Information Item

Workshop: Delta Plan Five-Year Review

Summary: Staff will present an update on the progress of the statutorily required Five-Year Review of the Delta Plan (See Water Code section 85300, subd. (c)). At this workshop, staff is seeking feedback from Councilmembers regarding the preliminary findings and recommendations. Council staff will incorporate Councilmember input from today's meeting as we continue to prepare recommendations for consideration as part of the Highlights Report and Recommendations Report.

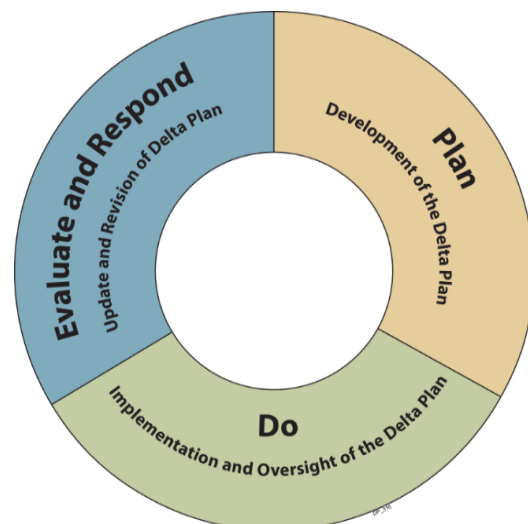
The Five-Year Review Process

The Delta Reform Act states that “(t)he Council shall review the Delta Plan at least once every five years and may revise it as the Council deems appropriate...” (Water Code section 85300, subd. (c)). To meet this requirement, Council staff have undertaken extensive review, analysis, stakeholder outreach, and synthesis to prepare draft findings based on lessons learned from the first five years of Delta Plan (Plan) implementation (2013-2018).

The Delta Plan Five-Year Review has three objectives: 1) to reflect on the successes and challenges of initial efforts across agencies to implement the Plan; 2) to focus and prioritize the Council's near-term future efforts to implement the Plan; and 3) to identify planning topics and emerging issues that may inform future Plan updates. The review itself will not edit the Plan, but will highlight findings, lessons learned, and include preliminary recommendations. Staff will work with Councilmembers to refine these recommendations and prioritize activities. The Five-Year Review Recommendations Report, described below, will provide an implementation timeline for the recommendations and associated activities to guide Council resourcing over the next five years (through 2024).

The Five-Year Review represents an important component of adaptive management of the Delta Plan. Adaptive management is “a framework and flexible decision-making process for ongoing knowledge acquisition, monitoring, and evaluation leading to continuous improvements in management planning and implementation...” (Water Code section 85052).

The Delta Plan describes a three-phase adaptive management framework: *Plan*, *Do*, and *Evaluate and Respond*. The Delta Plan states that this framework is to be used to manage ecosystem and water management projects, and also to guide how



Delta Plan Figure C-1

the Council (in collaboration with others) will implement and amend the Delta Plan to achieve the coequal goals.

“To be effective, governance to support science and implement adaptive management for a changing Delta must be flexible and have the capacity to change policies and practices in response to what is learned over time. An adaptive management approach...will ensure that the Delta Plan is updated as often as necessary to incorporate new information or modify policies and recommendations to ensure achievement of the coequal goals” (Delta Plan, Adaptive Management Framework).

This Five-Year Review represents the third step in the iterative adaptive management process described in the Council's Delta Plan: *Evaluate and Respond*. It also marks the beginning of a new cycle of *Planning* and *Doing*.

Update on Staff Activity

To date, staff has completed the following steps to support the review:

- Initial staff assessment of the Plan (*complete: presented at the May 24, 2018 Council meeting*)
- Chapter reviews and Delta Plan Interagency Implementation Committee (DPIIC) survey (*complete: addressed in findings presented at today's meeting*)
- External evaluation of the Plan and implementation efforts: Staff and consultants conducted individual and stakeholder focus group interviews and an online survey to understand how stakeholders view and use the Delta Plan. (*complete: presented at the March 21, 2019 Council Meeting; summary results available in Attachment A to this report*)
- Assessment of the Delta Plan covered action process (*complete: addressed in findings presented at today's meeting*).
- Additional assessment and analysis of Delta Plan implementation efforts, including DPIIC, performance measures, and how the Council has influenced Delta funding activities (*complete: addressed in findings presented at today's meeting*).
- Development of draft findings, lessons learned, and recommendations to be discussed and refined by the Council (*complete: addressed at today's meeting*).
- Preparation of two companion reports (*ongoing – draft and final deliverables to be presented at future Council meetings*):
 - **Highlights Report.** This report will describe significant accomplishments over the initial five years of Delta Plan implementation and identify anticipated policy and management challenges for the next five to 10 years. Similar in format to the Council's annual report, this document will provide information useful for stakeholders interested in Council activities.

- **Recommendations Report.** This report will summarize the methods and results of the Five-Year Review, describe the strengths and successes of the Plan, and identify portions of the Plan where the Council could focus implementation efforts in the near-term. The report will also identify emerging issues that may inform future Plan updates. Guided by the Council, the report will recommend priority actions, outlining focus areas for Council staff for the next five years.

Delta Plan Development and Amendments

In conducting a review of the Delta Plan, it is important to consider the original development and evolution of the Plan, as well as the changes that the Council has approved since adopting the Plan. Considering how and why the Council has amended the Plan provides important context and insight regarding implementation priorities and potential future updates.

Originally adopted in 2013, the Delta Plan was developed over the course of three years, with extensive public and interagency input and debate regarding content, regulatory policies, recommendations, and performance measures. The original Plan included 26 core strategies, 14 regulatory policies, and 75 recommendations. The Plan also identified 117 administrative performance measures designed to allow the Council to track implementation.

Since 2013, the Council has amended the Delta Plan to address issues that were either called for to complete the Plan, or necessitated by the Brown Administration's pivot away from the comprehensive conveyance and ecosystem restoration plan known as the Bay-Delta Conservation Plan.

The amendments were: 1) to update performance measures (2016); 2) to remove a sunset-clause exempting single-year water transfers from certification of consistency requirements (2016); 3) to include the Delta Levees Investment Strategy, 4) refined performance measures, and 5) recommendations for Conveyance, Storage Systems, and the Operation of Both (2018). The Council is currently considering potential amendments to Chapter 4, *Preserve, Protect and Enhance the Delta Ecosystem*¹.

Each of these six amendments required substantial public outreach, significant amounts of work by Councilmembers, staff and consultants, and three separate environmental review processes. As a result, much of the substantive changes that would be contemplated by the Five-Year Review have been completed or, in the case of Chapter 4, are underway.

Today's Meeting

Preliminary Delta Plan Review Findings

Staff has aggregated findings and lessons learned into categories and key findings based on reviewing the Delta Plan, analyzing Plan content, reviewing implementation activities to date, and conducting a broad range of stakeholder outreach including in-person stakeholder and DPIIC member interviews, an online survey for individuals, and a questionnaire for DPIIC

¹ Because the Council is considering potential amendments to Delta Plan Chapter 4 as part of a separate activity, Chapter 4 was generally omitted from the Five-Year Review.

members. These findings consist of one **general finding and recommendation**, supported by 11 **specific findings and recommendations**. Each is generally discussed below – additional detail will be provided in the draft Five-Year Review Recommendations Report staff will prepare for review and discussion at a future Council meeting. Table 1 provides additional information supporting the findings and recommendations.

General Finding

The Delta Plan is effective as a legally enforceable management plan for the Delta. While its accelerating implementation shows progress toward achieving the coequal goals, many challenges remain.

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The Delta Plan is effective as a legally enforceable management plan for the Delta. While its accelerating implementation shows progress toward achieving the coequal goals, many challenges remain.

Implementation of the Delta Plan and progress toward achieving the coequal goals has steadily increased, and there have been many implementation successes, including:

- The Council and other State agencies have implemented more than 40 percent of the administrative actions called for in the original Plan.
- Since adoption, 18 covered actions have certified as consistent with the Plan; more than 70 percent of these have certified in the past two years.
- Ten appeals of covered action certifications have been filed on two different projects, all within the last 12 months.
- Council staff has actively engaged with project proponents in early consultations and reviews of certifications of consistency.
- The Delta Plan Interagency Implementation Committee (DPIIC), envisioned in the Delta Plan, has hosted a Science Enterprise Workshop, which laid the groundwork for discussions regarding science funding and governance, is championing the pursuit of regional and multi-agency permitting in the Delta, and endorsed the High-Impact Science Actions and the Science Action Agenda to help prioritize science funding and actions.
- Council staff has updated and is actively tracking performance measures that measure administrative responses, as well as policy outputs and physical outcomes of Delta Plan implementation.

Additionally, the increase of regulatory covered actions over the past two years is evidence of accelerating implementation.

These successes represent important parts of the Delta Plan that are being realized; however, physical conditions in the Delta will take time and focused effort to improve. Most stakeholders acknowledged, and staff agree, that five years is not long enough to see substantial physical improvements in such a complex system. Further, the trajectory of implementation successes

indicates clear progress, improved coordination, and promise that physical outcomes of the Delta Plan can be realized with a continued focus on implementation.

The Delta Plan has evolved over the past five years but contains the core elements to further the coequal goals. Recent amendments have targeted and resolved specific issues for which the original Plan provided interim solutions. These amendments complete the commitments to revisions made in the original Plan and bring the Plan into alignment with State initiatives. Staff further finds that regulatory certainty is important and the Plan needs to be given time to work.

The regulatory policies in the Plan remain critically important, and Delta stakeholders acknowledged that they are effective for controlling activities in the Delta. Staff has made significant progress in communications and support for policy implementation through early consultations and appeals.

In reviewing the Plan, staff identified a number of out-of-date references, facts, and figures. In addition, some newer challenges and initiatives are not fully addressed. These issues are common for long-term plans and do not pose a significant barrier to continued implementation of the Plan.

Finally, the stakeholder assessment indicated that many stakeholders are not familiar with important elements of the Plan. This indicates a need for improved communication about Delta Plan content, regulations, and recommendations.

General Recommendation

Based on the findings discussed above, staff concludes that the Delta Plan, in its current, as-amended form, is effectively guiding the actions of local and state agencies working in the Delta. This leads staff to recommend that the Delta Plan does not require immediate significant changes to ensure successful implementation or to support the achievement of the coequal goals. Rather, staff recommends that the Council direct the majority of staff resources and focus over the next five years toward implementation activities. Providing a stable and consistent plan and regulatory framework will support the sustained implementation of activities needed to achieve the coequal goals.

Base on its review, staff has identified seven specific findings and recommendations to strengthen implementation activities, including the covered action process, performance measure tracking and trend analysis, and staff development. Additional findings and recommendations focus on addressing planning topics and issues of emerging concern. For each of these, staff has identified communication as a critical success factor. Results of the stakeholder assessment showed that misunderstanding, confusion, and lack of adequate communication were consistent themes regarding Delta issues, illustrating that the Council and others must communicate clearly, consistently, and use the right information for the appropriate audiences.

Specific Findings and Recommendations

1.0 Strengthen Plan Implementation

Strengthening Plan implementation means focusing staff resources on implementing existing policies and recommendations. Delta Plan policies are primarily implemented through the covered action certification of consistency process.

Recommendations are primarily implemented by the Council and other state agencies. While policies are regulatory requirements that apply to covered actions, recommendations are not compulsory and require Council leadership and collaborative effort. Recommendations in the Plan generally involve administrative actions, including updating plans, establishing advisory groups, developing guidance, and adopting requirements. Performance measures are the metric used for gauging Delta Plan implementation, including progress on implementing Delta Plan recommendations.

Based on experience, stakeholder feedback, and analysis of the Delta Plan and subsequent implementation actions, staff has identified seven specific findings regarding ongoing Plan implementation:

- Four findings relate to covered actions
- Two findings relate to Delta Plan performance measures
- One finding relates to staff development

Preliminary recommendations accompany each finding and describe activities to focus future efforts to strengthen Plan implementation.

2.0 Planning Topics and Emerging Issues

Planning topics and emerging issues are areas that have evolved in importance or have emerged since the Delta Plan's original adoption. These topics represent issues that have become increasingly important to Californians. The depth of treatment or policy responses in the current Plan may not be fully aligned with the current understanding of the issue, the societal importance of the issue, or both. Best available science, state and federal policy and priorities, and economic drivers may also direct shifts in the importance of each issue.

Strengthen Plan Implementation

1.1 Covered actions: outreach and early consultation

1.2 Covered actions: administrative procedures

1.3 Covered actions: adaptive management

1.4 Covered actions: best available science

*1.5 Performance measures: Delta Plan
recommendations implementation*

*1.6 Performance measures: tracking output/outcome
performance measures*

1.7 Staff development and technological advancement

Planning Topics and Emerging Issues

2.1 Climate change risks to the Delta

*2.2 Environmental justice and disadvantaged
communities*

2.3 Delta as an evolving place

2.4 Federal coordination and participation

Based on analysis of the Delta Plan, stakeholder feedback, and recent scientific findings, staff has identified four such planning topics and emerging issues. The Council has already begun to develop additional information related to all of these issues to support future policy decisions or implementation activities, but additional work is likely needed.

The table starting on the following page outlines the findings, lessons learned, and preliminary recommendations.

Table 1. Findings/Lessons Learned and Preliminary Recommendations

Findings/Lessons Learned			Preliminary Recommendations
1.0 Strengthen Plan Implementation			
1.1	Covered Actions: Outreach and early consultation	<p>The Council's certification and appeals process is unique, and it has taken time for the regulated community to understand how it works and what compliance means. Some early project proponents resisted or misunderstood consistency requirements, and a few important projects proceeded to implementation without demonstrating consistency with the Delta Plan.</p> <p>However, Council and staff investments in outreach and early consultation are showing significant progress and increased effectiveness, as evidenced by improved and increased early consultations and a corresponding increase in the number of covered actions filings the Council receives each year. Although Council communication with the public and project proponents regarding covered actions has improved, it requires continual enhancement and consistent repetition by engaging as early as possible and throughout project development.</p>	<ul style="list-style-type: none"> • Be more proactive in outreach and communication with project proponents in early consultation. • Expand the use of Council meetings and reports to communicate upcoming and ongoing early consultations and certifications of consistency.
1.2	Covered Actions: Administrative Procedures	<p>The Delta Reform Act sets out the specific timelines and requirements for covered action appeals, and the Council has the responsibility to develop and adopt administrative procedures that establish the details of how the Council will conduct appeals. The Council originally developed Administrative Procedures for Appeals (administrative procedures) in 2010. Based experience with covered actions and appeals filed to date, existing administrative procedures warrant review to identify potential improvements and incorporate lessons learned.</p>	<ul style="list-style-type: none"> • Review the administrative procedures to identify what, if any, procedural changes may be warranted based on covered actions and appeals to date. • Prepare and present any recommended changes to the administrative procedures to the Council for approval.

Findings/Lessons Learned			Preliminary Recommendations
1.3	Covered Actions: Adaptive management	<p>Delta Plan regulations require ecosystem restoration and water management covered actions have a formal adaptive management strategy. Adaptive management is necessarily project-specific and tailored to purpose. Project proponents and other stakeholders are supportive of adaptive management but expressed frustration with applying the Delta Plan adaptive management framework on a project-specific basis.</p> <p>In addition, several other regulatory processes require adaptive management plans. Projects consistently have very limited resources for adaptive management planning and struggle with differing regulatory requirements from each process. To this end, Council staff have been working with other agencies to facilitate coordinated support and guidance for adaptive management planning, including the Delta Conservation Adaptive Management Action Strategy and Collaborative Adaptive Management Team (CAMT).</p>	<ul style="list-style-type: none"> • Continue to communicate adaptive management requirements to proponents in early consultation and comment letters. • Emphasize customizing adaptive management consultations to project scope and scale. • Work with other agencies to advance the understanding and application of adaptive management.
1.4	Covered Actions: Best available science	<p>Delta Plan regulations require all covered actions to document the use of best available science. Stakeholders familiar with the Delta Plan stated that the definition and intended use of best available science was not always clear to them, and that more support is needed on how to apply and document use of best available science. The Delta Plan best available science policy relates to a broad range of project activities. Scientific information is generated from many sources and collecting it, then establishing what constitutes the <u>best</u> science requires an assessment of multiple variables. Staff continues to provide support for, access to, and recommendations about best available scientific tools, venues, synthesis products, and publications.</p>	<ul style="list-style-type: none"> • Continue to work with project proponents to provide support for, access to, and recommendations about best available scientific tools, venues, synthesis products, and publications. • Expand coverage of the breadth and depth of best available science considerations in early consultation, providing thorough explanations of the policy's six criteria. • Identify priority areas of interest for future Science Action Agendas for research funding.

Findings/Lessons Learned			Preliminary Recommendations
1.5	Performance Measures: Delta Plan recommendations implementation	<p>Efforts by the Council and other agencies to implement Delta Plan recommendations and achieve administrative performance measures have been successful in part but have not been fully realized. Administrative performance measures are used to track implementation of the Delta Plan Recommendations. Of the 145 administrative performance measures in the Delta Plan:</p> <ul style="list-style-type: none"> • Over 40% are complete, ongoing, or on schedule to be completed. • About 15% are behind schedule or show limited progress toward implementation. • Another 15% are new and need additional time to show progress. • About 30% are out of alignment with current regulations, state administrative priorities, or the Delta Plan. <p>Based on these data and adding consideration of stated Council priorities, staff identified priority Delta Plan recommendations that warrant further attention and effort:</p> <ul style="list-style-type: none"> • <i>Reduce reliance on the Delta and increase water use efficiency</i> [e.g., WR R1] • <i>Align state funding for Delta Plan implementation</i> [e.g., FP R2] • <i>Flood risk reduction and emergency response</i> [e.g., RR R3] • <i>Increased water storage and conveyance</i> [e.g., WR R12] 	<ul style="list-style-type: none"> • Develop specific strategies for engaging and collaborating with implementing agencies for priority recommendations. Make recommendation implementation a focus of ongoing communications and comment letters. • Link DPIIC agenda items to Delta Plan implementation activities, including priority recommendations and performance measures. • Building on the existing tracking and monitoring system used to maintain the Administrative Performance Measures Dashboard, establish specific schedules for status and progress updates. Improve staff engagement with partner agencies implementing Delta Plan recommendations and report progress regularly in Council meetings and other public forums.

Findings/Lessons Learned			Preliminary Recommendations
1.6	Performance Measures: Tracking output/outcome performance measures	Council staff recently updated the Delta Plan output and outcome performance measures, and launched a new website to publicly track and report progress. Because the Council recently updated these measures, many have only a single reported data point to measure progress. The measures require additional time and data to demonstrate trends. No changes are recommended to the output-outcome performance measures at this time.	<ul style="list-style-type: none"> • Monitor and track output-outcome performance measures to enable these measures to provide enough data to inform conclusions about the trajectory of Delta Plan performance. • Use this tracking to communicate with partner agencies and the public to raise awareness of priority Delta Plan recommendations and progress toward accomplishing them.
1.7	Staff Development and Technological Advancement	Monitoring datasets, sophisticated modeling, and geographic information systems that organize data spatially increasingly drive best available science, adaptive management, policy decisions, and management actions, as demonstrated by recent Council experiences with Delta Plan amendments, covered action appeals, performance measures, and science initiatives. Sophisticated deployment of new tools and analytical approaches benefit the Council's implementation efforts.	<ul style="list-style-type: none"> • Focus resources and efforts on the development of staff capacity, expertise, and IT infrastructure improvements. • Deploy new analytical tools to support management and policy decisions, with specific focus on synthesis, performance measures tracking, and covered action analyses.

Findings/Lessons Learned			Preliminary Staff Recommendation
2.0 Planning Topics and Emerging Issues			
2.1	Climate change risks to the Delta	<p>Climate change is emerging as the defining challenge of the 21st century. Nearly all stakeholders interviewed identified climate change as an issue of great importance for the Council. Numerous studies have shown that critical changes are occurring and will continue to change the dynamics of upstream Delta watersheds, the oceans and San Francisco Bay, and the Delta and Suisun Marsh. These changes will present new challenges for the management of the Delta.</p> <p>While the Delta Plan includes consideration of climate change and sea level rise, additional steps should be taken to advance achievement of the coequal goals for the Delta in the context of a changing climate. The Council has initiated a three-year project to complete a climate change vulnerability assessment and adaptation strategy for the Delta and Suisun Marsh. This work will provide additional information and adaptation strategies to support State and local planning.</p>	<ul style="list-style-type: none"> After completion of the climate change vulnerability assessment and adaptation strategy, evaluate the potential for Delta Plan amendments to address climate change risks to the Delta.
2.2	Environmental justice and disadvantaged communities	<p>After the Council adopted the Delta Plan in 2013, disadvantaged communities and issues of environmental justice have emerged as a statewide priority and as a more prevalent part of planning. For example, Senate Bill 1000 (2016) requires an environmental justice element in city and county general plans. Appellants also raised environmental justice issues in the California WaterFix covered action appeals.</p> <p>The Delta Plan discusses disadvantaged communities in Chapters 3 and 6, including section dedicated to the human right to water and a suite of water quality actions. Additional content and new policies or</p>	<ul style="list-style-type: none"> Prepare an issue paper summarizing best available science and identifying policy options related to environmental justice to advise the Council on how this topic could be approached in the Delta Plan.

Findings/Lessons Learned			Preliminary Staff Recommendation
		<p>recommendations may be needed to address this emerging issue. Council staff is currently developing a public participation plan that will address how environmental justice and disadvantaged communities can be better integrated into Council decision-making processes.</p>	
2.3	Delta as an evolving place	<p>Staff and stakeholders have identified several emerging policy issues related to Delta as an evolving place, including:</p> <ul style="list-style-type: none"> • Connections between existing agricultural practices, economic sustainability, development pressures and increasing risk in the Delta • Cultural resources, tribal values, and ecocultural values • Improved and emerging social science research <p>The Council is already addressing some of these topics. The climate vulnerability assessment and adaptation strategy will address significant risks to Delta communities due to climate change; the recently adopted National Heritage Area in the Delta will improve coverage of cultural values; and the Council has recently convened and is supporting a Social Science Task Force that will recommend strategies for agencies to improve use of social science. Additional evaluation and analysis of these issues could inform future amendments.</p> <p>The Delta Protection Advisory Committee and Delta Protection Commission have recommended emphasizing Delta as Place as a common thread spanning all chapters of the Delta Plan. Updates to Delta Plan Chapters 3, 4 (ongoing), and 7 have responded to this recommendation.</p>	<ul style="list-style-type: none"> • Prepare an issue paper summarizing best available science and identifying policy options related to Delta as place following completion of ongoing studies and efforts. • Continue to engage the Delta Protection Advisory Committee and Delta Protection Commission when conducting future Delta Plan amendments.

Findings/Lessons Learned			Preliminary Staff Recommendation
2.4	Federal coordination and participation	<p>Stakeholder outreach has illuminated a need for greater participation and involvement by federal agencies to implement the Delta Plan and achieve the coequal goals. In addition, a 2018 Government Accountability Office report found that not all federal entities are following the guidelines established by the federal government to guide federal efforts in the Delta watershed. Although the Delta Reform Act does not require federal agencies to participate in the certification of consistency process, federal agencies participate as members of DPIIC, and there is an established history of state/federal collaboration on Delta issues, particularly with respect to scientific investigations and monitoring.</p> <p>The Delta Reform Act called for the Delta Plan to be developed consistent with the Coastal Zone Management Act (CZMA). With CZMA authority, the Council could have greater influence over federal actions that affect the Delta.</p> <p>The Council has not formally submitted the Delta Plan to the federal Commerce Secretary for approval, as is required to gain CZMA authority.</p>	<ul style="list-style-type: none"> • Use DPIIC to improve federal participation in Delta Plan implementation and improve coordination and cooperation with federal agencies. • Continue staff-to-staff coordination to build relationships and voluntary alignment with federal agencies. • Develop an issue paper that documents steps necessary to submit the Delta Plan to the Secretary of Commerce for inclusion in California's Coastal Zone Management Program. Explore trade-offs of pursuing CZMA and additional potential strategies for improving federal participation in Delta Plan implementation.

Next Steps

Staff will incorporate Councilmember input from today's meeting as we continue to prepare recommendations for consideration as part of the Highlights Report and Recommendations Report. Staff anticipates returning to the Council in the third quarter of 2019 to present drafts of these reports, and in the fourth quarter of 2019 to seek Council approval of the reports.

Fiscal Information

Not applicable

List of Attachments

Attachment 1: Five-Year Review Stakeholder Assessment

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